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EUROPEAN COMMISSION

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2010/0119 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the conclusion of the Agreement between the European Community  
and its Member States, of the one part,  
and the Republic of South Africa, of the other part,  
amending the Agreement on Trade, Development and Cooperation**

## **EXPLANATORY MEMORANDUM**

The Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part (hereinafter referred to as the 'TDCA'), was signed in Pretoria on 11 October 1999 and entered into force on 1 May 2004.

Articles 18 and 103 of the TDCA call for a review of the Agreement within five years of its entry into force.

At its meeting of 7 November 2005, the Joint Cooperation Council established the broad lines of the future revision of the TDCA, covering further liberalisation of trade, minor adjustments to the Title on Development Cooperation, updating the wording of several provisions concerning economic cooperation and cooperation in other areas, and the addition of new provisions on such matters as terrorism, the International Criminal Court, weapons of mass destruction, mercenaries and small arms.

On that basis, the Commission submitted a proposal for a negotiating mandate in June 2006.

On 17 November 2006 the Council adopted a two-tier Decision giving the Commission two mandates. One was to give guidance to the Commission for revising the Agreement on Trade, Development and Cooperation on the basis of Article 106(1) of the TDCA, which gives the Cooperation Council the power to decide on amendments put forward by any Party. The other was to authorise the opening of negotiations between the Community and its Member States, on the one hand, and the Republic of South Africa, on the other, to revise the Agreement on matters relating to the political dimension of the Agreement and to justice, freedom and security.

However, in the course of the negotiations, for the sake of consistency, both sides agreed to forego the 'lighter' procedure of Article 106(1) of the TDCA, and to negotiate a single Agreement amending the TDCA. Consequently, the Commission negotiated this Agreement on the basis of the combined negotiating directives adopted by the Council, and in consultation with the Africa, Caribbean and Pacific (ACP) Working Party and the Africa Working Group. These two bodies were appointed by the Council, according to their respective responsibilities, as the special committees to assist the Commission in its task. The TDCA negotiations on trade and trade-related matters were suspended pending the outcome of the Economic Partnership Agreement (EPA) negotiations<sup>1</sup>.

Throughout the negotiations, the Commission ensured that due account was taken of the process for implementing the Strategic Partnership between South Africa and the EU. The negotiations were concluded to the Commission's satisfaction on 10 October 2007.

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<sup>1</sup> It is to be noted that the Commission has adopted on 23 February 2010 a separate proposal (COM 2010/57) on a Community position within the EU-South Africa Joint Cooperation Council on a modification of the tariff annexes of the TDCA. This separate amendment is aimed at aligning the tariffs established by the TDCA and applied by South Africa, with those established by the interim EPA negotiated with the SADC EPA group and which should be applied by the other countries of the Southern Africa Customs Union (SACU).

On 1 April 2008 the Council adopted a decision<sup>2</sup> on signing the amending agreement. In accordance with this Council Decision, the agreement was subsequently signed on behalf of the Community and the Member States on 11 September 2009 in Kleinmond, South Africa.

Following the entry into force of the Treaty on the European Union and the Treaty on the Functioning of the European Union, the European Union is substituting the European Community for the approval of the agreement. As stipulated in Article 3 of the Agreement, the Parties shall notify each other of the completion of the corresponding approval procedures and the respective instruments of ratification shall be deposited with the General Secretariat of the Council of the European Union.

As established in Article 4, the Amending Agreement shall enter into force on the first day of the month following the month in which the Parties notify each other that the necessary procedures have been completed.

The current proposal is for a Council Decision concluding the amending agreement.

The Commission therefore recommends that the Council adopt the attached Decision.

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<sup>2</sup> Council Decision 7437/08 of 1 April 2008.

Proposal for a

**COUNCIL DECISION**

**of [...]**

**on the conclusion of the Agreement between the European Community  
and its Member States, of the one part,  
and the Republic of South Africa, of the other part,  
amending the Agreement on Trade, Development and Cooperation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218 (6) (a) thereof,

Having regard to the proposal from the Commission,

Having regard to the consent of the European Parliament<sup>3</sup>,

Whereas:

(1) The Agreement between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, amending the Agreement on Trade, Development and Cooperation was signed on behalf of the Community and the Member States on 11 September 2009 in Kleinmond, South Africa, in accordance with Council Decision 7437/08 of 1 April 2008 on the signing of the Agreement between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, amending the Agreement on Trade, Development and Cooperation.

(2) Article 3 of the Amending Agreement establishes that it should be approved by the Union, by the Member States, and by the Republic of South Africa in accordance with their own procedures,

(3) The Agreement should be approved,

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<sup>3</sup> OJ C [...], [...], p. [...].

HAS ADOPTED THIS DECISION:

*Article 1*

The Agreement between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, amending the Agreement on Trade, Development and Cooperation, is hereby concluded.

The text of the Agreement is annexed to this Decision.

*Article 2*

The President of the Council shall designate the person empowered, on behalf of the European Union, to deposit the instrument of approval provided for in Article 3 of the Agreement in order to express the consent of the European Union to be bound by the Agreement.

*Article 3*

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

The date of entry into force of the Agreement shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council  
The President*

**ANNEX**

AGREEMENT  
BETWEEN THE EUROPEAN COMMUNITY  
AND ITS MEMBER STATES, OF THE ONE PART,  
AND THE REPUBLIC OF SOUTH AFRICA, OF THE OTHER PART,  
AMENDING THE AGREEMENT  
ON TRADE, DEVELOPMENT AND COOPERATION

THE KINGDOM OF BELGIUM,  
THE REPUBLIC OF BULGARIA,  
THE CZECH REPUBLIC,  
THE KINGDOM OF DENMARK,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF ESTONIA,  
IRELAND,  
THE HELLENIC REPUBLIC,  
THE KINGDOM OF SPAIN,  
THE FRENCH REPUBLIC,  
THE ITALIAN REPUBLIC,  
THE REPUBLIC OF CYPRUS,  
THE REPUBLIC OF LATVIA,  
THE REPUBLIC OF LITHUANIA,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE REPUBLIC OF HUNGARY,  
MALTA,  
THE KINGDOM OF THE NETHERLANDS,  
THE REPUBLIC OF AUSTRIA,  
THE REPUBLIC OF POLAND,  
THE PORTUGUESE REPUBLIC,  
ROMANIA,  
THE REPUBLIC OF SLOVENIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF FINLAND,  
THE KINGDOM OF SWEDEN,  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,  
Contracting Parties to the Treaty establishing THE EUROPEAN COMMUNITY,  
hereinafter referred to as the "Member States", and  
THE EUROPEAN COMMUNITY,  
hereinafter referred to as "the Community",  
and  
THE REPUBLIC OF SOUTH AFRICA,  
together hereinafter referred to as the "Parties",



CONSIDERING THAT the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part (hereinafter referred to as the "TDCA"), was signed in Pretoria on 11 October 1999 and entered into force on 1 May 2004;

CONSIDERING THAT Articles 18 and 103 of the TDCA call for a review of the Agreement within five years of its entry into force; that the Parties conducted a review in 2004 and agreed in a joint statement by the Cooperation Council of 23 November 2004 on the need to make certain amendments to the TDCA;

CONSIDERING THAT the revision of the TDCA provisions on trade and trade-related matters is subject of the negotiations on an Economic Partnership Agreement between the European Union and the countries of Southern Africa;

CONSIDERING THAT the Joint Action Plan to implement the Strategic Partnership between the Republic of South Africa and the European Union has been concluded and provides for an extension of cooperation between the Parties in a wide range of areas,

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

The TDCA is hereby amended as follows:

- (1) in the preamble, a new sixth recital shall be added:

"Recognising that the multilateral disarmament and non-proliferation treaty system in all its components is of vital importance and that progress should be made in the implementation of all the obligations deriving from it; the Parties therefore wish to include a clause into this agreement, which will allow them to cooperate and to have a political dialogue on these issues.";

- (2) in Article 2, the first paragraph shall be replaced by the following:

"Respect for democratic principles and fundamental human rights as laid down in the Universal Declaration of Human Rights, and for the principles of the rule of law, as well as cooperating on issues of disarmament and the non-proliferation of weapons of mass destruction as set out in Article 91A, paragraphs 1 and 2, underpin the internal and international policies of the European Union and South Africa and constitute essential elements of this agreement.";

(3) Article 55 shall be replaced by the following:

"Article 55

Information society and ICTs

1. The Parties agree to cooperate in the development of the Information Society, and in harnessing information and communication technologies (ICTs) as enabling tools of socio-economic development in the information age. The aim of cooperation shall be to:
  - (a) promote the development of an inclusive, development-oriented information society;
  - (b) support the growth and advancement of the ICT sector, including SMMEs<sup>4</sup>;
  - (c) support cooperation between the countries of the southern African region in this area, and more generally at the continental level.
2. Cooperation shall include dialogues, information exchange and possible technical assistance on different aspects of building the information society. This includes:
  - (a) policies and regulatory frameworks, innovative and inclusive applications and services, skills development;

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<sup>4</sup> Small, micro- and medium-sized enterprises.

- (b) facilitating interaction between regulatory authorities, public sector entities, business and civil society organisations;
- (c) new facilities, including research and education networks, targeting networks interconnections and applications interoperability;
- (d) promotion and implementation of joint research, technological development on projects in the field of new technologies related to the information society.

Mutually identified projects resulting from interactions on the above-mentioned issues should be considered for implementation through the development cooperation programme.";

(4) Article 57 shall be amended as follows:

- (a) the introductory sentence of the first paragraph shall be replaced by the following:

"1. The aim of cooperation in this area is *inter alia*:";

- (b) paragraph 2 shall be replaced by the following:

"2. Cooperation shall specifically aim:

- (a) to support the development of appropriate energy policy, its regulatory framework and infrastructure in South Africa;
- (b) to ensure energy security in South Africa by diversifying energy sources;
- (c) to improve energy operators' performance standards in technical, economic, environmental and financial terms especially in the electricity and liquid fuels sectors;
- (d) to facilitate capacity building of local expertise especially by general and technical training;
- (e) to develop new and renewable sources of energy and support infrastructure for national and rural energy needs and electricity supply;
- (f) to improve the rational use of energy in buildings and industry notably by the promotion of energy efficiency;
- (g) to promote mutual transfer and use of environmentally friendly and cleaner energy technologies;
- (h) to promote cooperation in the regulation of the energy sector within the southern African region;
- (i) to promote regional energy cooperation in southern Africa.";

(c) the following paragraph shall be added to Article 57:

"3. Cooperation will include South African activities undertaken in the framework of the European Union Energy Initiative for Poverty Eradication and Sustainable Development, the Johannesburg Plan of Implementation Targets and the UN Commission for Sustainable Development.";

(5) Article 58 shall be amended as follows:

(a) in paragraph 1(a) the words "health and safety" shall be replaced by "health, safety and environmental";

(b) in paragraph 1(b) second sentence shall be replaced by "The cooperation should include creating a mutually beneficial climate for attracting investment in the sector, particularly the SMEs<sup>5</sup> and should also involve previously disadvantaged communities.";

(c) the following point shall be added to paragraph 1:

"(d) to support policies and programmes that promote the local beneficiation of minerals and that create opportunities for collaboration in the development of the mineral beneficiation sector.";

(d) paragraph 1(d) shall be renumbered 1(e);

(e) in paragraph 2, in fine, the words "and the African Mining Partnership (AMP)" shall be added;

(6) Article 59 shall be amended as follows:(a) in paragraph 1(b), after the words "in order to create a", the words "safe and" shall be inserted;

(b) in paragraph 2 (c), after the words "improving the safety of air", the word ", rail" shall be inserted;

(c) in paragraph 2, the following points shall be added:

"(d) exchanging of information and improving cooperation on the respective transport safety and security policies and practices, especially regarding the maritime, aviation and land transport sectors including inter modal flows of goods;

(e) harmonising transport policies and regulatory frameworks through enhanced policy dialogue and exchanges of regulatory and operational know-how with competent authorities;

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<sup>5</sup> Small and medium-sized enterprises.

- (f) developing partnerships in the field of global satellite navigation systems, including research and technology development, and their application for sustainable development.";

(7) The following article shall be inserted:

"Article 59A

Maritime transport

1. The Parties shall, for the purpose of promoting the development of their maritime industry, encourage their competent authorities, shipping companies, ports, relevant research institutions, maritime freight forwarding and clearing companies, logistics companies, universities and colleges to cooperate, including, but not limited to, the following fields:

- (a) exchange of views related to their activities in the framework of international maritime organisations;
- (b) formulate and perfect the legislation relating to maritime transport and market administration;
- (c) strive for efficient transport service for international sea trade by the effective operation and management of the ports and fleets of the Parties;
- (d) enforce internationally binding shipping safety standards and legal regulations and prevent marine pollution;
- (e) promote maritime education and training, especially the training of seafarers;
- (f) exchange of personnel, scientific information and technology;
- (g) strengthening efforts to enhance maritime security.

2. The Parties reaffirm their firm commitments to the relevant international conventions that they have ratified, regulating the transportation of hazardous biological, chemical and nuclear materials, and agree to cooperate on these issues both bilaterally and in multilateral *fora*.

3. Cooperation in this regard could take place through jointly developed capacity building programmes with respect to security and the environment."

(8) Article 60 shall be amended as follows:

- (a) paragraph 1(c) shall be replaced by the following:

"(c) to promote the development of products and markets, human resources and institutional structures;"

- (b) paragraph 1(e) shall be replaced by the following:

"(e) to cooperate in developing and promoting community-based tourism;"

- (c) paragraph 2(e) shall be replaced by the following:

"(e) promoting cooperation at regional and continental level."

(9) Article 65 shall be amended as follows:

- (a) in paragraph 1, the words "shall be conducted in a context of policy dialogue and partnership" shall be replaced by "shall be conducted in a context of policy dialogue, partnership and aid effectiveness";
- (b) in paragraph 3, in fine, the word "and in particular the achievement of the Millennium Development Goals (MDG's)" shall be added;

(10) The following article shall be inserted:

"Article 65A

Millennium Development Goals

The Parties reaffirm their commitment to achieving the Millennium Development Goals by the target date of 2015. The Parties also agree to redouble their efforts to meet their Monterrey Financing for Development commitments<sup>6</sup>, as well as achieving the outcomes of the Johannesburg Plan of Implementation (WSSD<sup>7</sup>). The Parties furthermore express their support for the African Union and its socio-economic programme, and will jointly mobilise resources for its implementation."

(11) Article 66 shall be amended as follows:

- (a) paragraph 1 shall be replaced by the following:

"1. The areas of development cooperation will be set down in jointly agreed Multi Annual Programming documents, including joint programming documents agreed with EU Member States, in accordance with the relevant cooperation instruments of the EU.";
- (b) in paragraph 2 the words "non-governmental development partners and actors" shall be replaced by "non-state actors";
- (c) In paragraph 3 the word "previously" shall be deleted;

(12) Article 67 shall be replaced by the following:

"Article 67

Eligible beneficiaries

Cooperation partners eligible for financial and technical assistance shall be national, provincial and local authorities and public bodies, non-state actors and regional and international organisations and institutions."

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<sup>6</sup> The international conference on Financing for Development was held in Monterey, Mexico in March 2002, yielding the Monterrey Consensus and a series of commitments adopted for the future financing of development aid and eradicating world poverty.

<sup>7</sup> World Summit on Sustainable Development.



- (13) Article 68 shall be amended as follows:
- (a) in paragraph 1 the words "monitoring audits and missions" shall be replaced by "monitoring, audits and other missions";
  - (b) in paragraph 2(c) the word "non-government partner" shall be replaced by "non-state actor";
  - (c) in paragraph 4 the word "may" shall be replaced by "will";
- (14) Article 69 shall be amended as follows:
- (a) in paragraph 1 the words "based on specific objectives derived from the priorities in Article 66 and" shall be deleted;
  - (b) in paragraph 2 the words "attached to the Multiannual Indicative Programme" shall be replaced by "set out in the Agreements and/or contracts governing individual projects and programmes";
- (15) Article 71 shall be amended as follows:
- (a) in paragraph 1 the words "a financing proposal" shall be replaced by "an Annual Action Plan";
  - (b) in paragraph 2 the words "financing proposal" shall be replaced by "Annual Action Plan";
- (16) Article 73 shall be amended as follows:
- (a) in paragraph 1 the words "South Africa and the ACP States", shall be replaced by "South Africa, the ACP States and countries and territories that are eligible in accordance with the untying regulations of the EC";
  - (b) in paragraph 2 the words "South Africa or the ACP States", shall be replaced by "South Africa, the ACP States or countries and territories that are eligible in accordance with the untying regulations of the EC";
- (17) In Article 76 the words "Cooperation Council" shall be replaced by "EU Council of Ministers";
- (18) In Article 77 the words "Cooperation Council" shall be replaced by "EU Council of Ministers";
- (19) Article 79 shall be amended as follows:
- (a) in the title of the Article the word "Chief" shall be deleted;
  - (b) in the text of the Article the words "a Chief Authorising Officer" shall be replaced by "an Authorising Officer";
- (20) In Article 82 the first sentence of paragraph 2 shall be deleted;
- (21) Article 83 shall be replaced by the following:

## Science and Technology

1. The Parties will pursue mutually beneficial science and technology partnerships, promoting cooperation under the European Union's Framework Programmes, within the context of the provisions of the agreement on cooperation in science and technology, concluded in November 1997, and in the context of the present Agreement and other relevant instruments. The Parties will give special consideration to the harnessing of science and technology to support South Africa's sustainable growth and development, consistent with the provisions of this Agreement, as well as the advancement of the global sustainable development agenda and the strengthening of Africa's science and technology capacities.

The Parties will engage in a regular dialogue in order to jointly identify priorities for science and technology cooperation.

2. The cooperative relationship will involve among others matters related to science and technology for poverty alleviation programmes; science and technology policy exchanges; research and innovation partnerships to support economic cooperation and employment creation; cooperation in global frontier research programmes and global research infrastructures; support for African continental and regional science and technology programmes; strengthening the multilateral science and technology dialogue and partnerships; exploiting synergy between multilateral and bilateral science and technology cooperation; human capital development and global mobility of researchers; and concerted and targeted cooperation in specific science and technology thematic areas as jointly identified by the Parties.";

(22) Article 84 shall be amended as follows:

- (a) in paragraph 1 in fine, the words ", including in the context of the United Nations and other multilateral *fora*." shall be added;
- (b) in paragraph 3 the word "the" preceding the words "sustainable management of forestry resources;" shall be deleted; after the words "water quality control", the words "air quality;" shall be inserted; the words "surrounding the reduction of greenhouse gas emission" shall be replaced by "related to the causes and impacts of climate change.";

(23) Article 85 shall be replaced by the following:

"Article 85

## Culture

### 1. General Provision, Policy Dialogue

- (a) The Parties shall undertake to cooperate in the sphere of culture in order to promote mutual understanding and the knowledge of the culture(s) of South Africa, and of the Member States of the European Union.
- (b) The Parties shall endeavour to establish a policy dialogue in the field of culture, in particular as regards the strengthening and development of a competitive sector of cultural industries in South Africa and the European Union.

### 2. Cultural Diversity and Intercultural Dialogue

The Parties shall undertake to cooperate in the framework of the relevant international *fora* (e.g. UNESCO) to enhance the protection and promotion of cultural diversity and to foster intercultural dialogue at international level.

### 3. Cultural Cooperation and Exchanges

The Parties shall encourage cooperation in cultural activities, participation in events and cultural exchanges between cultural operators from South Africa and the European Union.";

(24) The first paragraph of Article 86 shall be replaced by the following:

- "1. The Parties will engage in a dialogue in the area of employment and social policy. This shall include, but not necessarily be limited to, questions relating to the social problems of post-apartheid society, poverty alleviation, decent work for all, social protection, unemployment, gender equality, violence against women, children's rights, persons with disabilities, older persons, youth, labour relations, public health, safety at work and population.";

(25) Article 90 shall be replaced by the following:

"Article 90

#### Cooperation on Illicit Drugs

1. Within their respective powers and competencies, the Parties shall cooperate to ensure a balanced and integrated approach towards addressing the drugs problem. Drug policies and actions shall be aimed at reducing the supply of, trafficking in and the demand for illicit drugs, as well as the prevention of precursor diversion.
2. The Parties shall agree on means of cooperation to attain these objectives. Actions shall be based on the principles agreed upon at the United Nations General Assembly Special Session on Drugs 1998 and the full respect of fundamental human rights.";

(26) Article 91 shall be amended as follows:

- (a) the title shall be replaced by the following:

"Protection of Personal Data";

(b) paragraph 1 shall be replaced by the following:

"1. The Parties shall cooperate to improve the level of protection of personal data to the highest international standards, such as, *inter alia*, the Guidelines for the regulation of computerised personal data files, modified by the General Assembly of the United Nations on 20 November 1990 and to facilitate the exchange of data in accordance with applicable national legislation, respecting the highest international standards including the protection of fundamental rights.";

(c) paragraph 3 shall be deleted;

(27) The following articles shall be inserted:

"Article 91A

Weapons of mass destruction and their means of delivery

1. The Parties, considering the importance of the issues at stake for international stability and security, agree to cooperate and to contribute to strengthening the multilateral disarmament and non-proliferation system and in that context countering the proliferation of all weapons of mass destruction and their means of delivery through full compliance with and national implementation of their respective existing obligations and commitments under the relevant treaties and agreements and other relevant international obligations.
2. The Parties furthermore agree to cooperate and to contribute to reach these objectives by:
  - (a) taking steps to sign, ratify or accede to other relevant international disarmament and non-proliferation instruments, as appropriate, and fully implement and comply with all international legally-binding instruments;
  - (b) establishing and/or maintaining an effective system of national export controls, controlling the export as well as transit of weapons of mass destruction related goods, including a weapons of mass destruction end-use control on dual-use technologies, and containing effective measures, including those based on penal law to address breaches of export controls.
3. The Parties agree that paragraphs one and two of this article constitute an essential element of this Agreement. The Parties agree to establish a regular political dialogue that will accompany and consolidate their cooperation in this area in the context of the principles as set out in the Preamble.

Article 91B

Combating terrorism

1. The Parties firmly condemn all acts, methods and practices of terrorism in all their forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed.
2. The Parties furthermore firmly recognise that terrorism cannot be defeated without also fundamentally addressing factors conducive to the spread of terrorism. The Parties reaffirm their strong commitment to developing and implementing comprehensive action programmes aimed at eliminating these factors. The Parties underline that the fight against terrorism must be conducted with full respect for international law, human rights and refugee law and that all measures must be firmly based on the rule of law. The Parties stress that effective counter-terrorism measures and the protection of human rights are not conflicting goals but complementary and mutually reinforcing.
3. The Parties emphasise the importance of the implementation of the UN Global Counter-Terrorism Strategy and their willingness to work for this objective. They continue to be committed to reaching an agreement on the Comprehensive Convention on International Terrorism as soon as possible.
4. The Parties agree to cooperate in the prevention and suppression of acts of terrorism in accordance with the Charter of the United Nations and international law, relevant conventions and instruments and within their respective legislation and regulations. They shall do so in particular:
  - (a) in the context of the mutual implementation of Resolution 1373 (2001) of the UN Security Council and other relevant UN resolutions, and applicable international conventions and instruments;
  - (b) by exchange of information on terrorist groups and their support networks, by mutual agreement and in accordance with international and national law;
  - (c) by exchange of views on means and methods used to counter terrorism, including in technical fields and training, and by exchange of experiences in respect of terrorism prevention.

#### Article 91C

##### Money laundering and terrorism financing

1. The Parties agree on the necessity of making every effort and cooperating in order to prevent the use of their financial systems for laundering of proceeds from criminal activities in general and from offences related to illicit drugs and psychotropic substances in particular.
2. Cooperation in this area may include administrative and technical assistance with the purpose of developing the implementation of regulations and efficient functioning of the suitable standards and mechanisms to combat money laundering and terrorism financing equivalent to international standards and in particular to the recommendations of the Financial Action Task Force (FATF).

#### Article 91D

## Combating Organised Crime

The Parties agree to cooperate in combating organised and financial crime including corruption. Such cooperation aims in particular at implementing and promoting relevant international standards and instruments, such as the UN Convention on Transnational Organised Crime and its supplementing Protocols and the UN Convention against Corruption.

### Article 91E

#### Small arms and light weapons

The Parties recognise that the illicit manufacturing, stockpiling, possession and trade in small arms and light weapons and their excessive accumulation and uncontrolled spread continue to be a major contributor to instability and a threat to safety, security and sustainable development. The Parties therefore agree to pursue and further develop close cooperation to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects as set out in the UN Programme of Action (UNPoA) and to address the issue of the excessive accumulation of small arms and light weapons. The Parties agree to rigorously observe and fully implement their obligations under international law and relevant conventions, as well as their undertakings in terms of relevant multilateral instruments.

### Article 91F

#### Mercenaries

The Parties undertake to establish a regular political dialogue and to cooperate in the prevention of mercenary activities in accordance with their obligations under international conventions and instruments, and their respective legislations and regulations implementing such obligations.

### Article 91G

#### International Criminal Court

The Parties, determined to put an end to impunity and to promote international peace and security and lasting respect for the enforcement of international justice, reaffirm their support for the International Criminal Court and its work. The parties further agree to cooperate to promote the universality and integrity of the Rome Statute and related instruments and agree to strengthen their cooperation with the ICC and its work.

### Article 91H

#### Cooperation on migration

1. Migration shall be the subject of in-depth political dialogue, reflecting the importance the Parties attach to this topic.

The Parties reaffirm their commitment to existing obligations under international law regarding migration matters to ensure respect for human



rights and to eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.

2. With a view to strengthening cooperation between the Parties, such dialogue shall cover a broad and comprehensive agenda, including:
  - (a) fair treatment of foreign nationals residing legally on their territories, integration policy aimed at granting them rights and obligations comparable to those of their citizens, enhancing non-discrimination in economic, social and cultural life and developing protective measures against racism, xenophobia and related intolerance and violence;
  - (b) the treatment accorded by EU Member States to South Africans legally employed on their territory as regards working conditions, remuneration and dismissal should be equivalent to their own nationals. Similarly South Africa shall accord comparable non-discriminatory treatment to EU workers legally employed on its territory;
  - (c) visa issues of mutual interest; including simplifying entry procedures for South African nationals visiting the EU as well as EU Member States' nationals visiting South Africa;
  - (d) travel document security and identity issues;

- (e) the linkages between migration and development, including:
    - strategies aimed at reducing poverty, improving living and working conditions, creating employment and developing relevant skills,
    - facilitating the participation of migrants in the development of their home countries,
    - cooperation to strengthen capacities, particularly in the health and education sectors, to offset the negative impact of "brain drain" on sustainable development in South Africa, and
    - ways to facilitate legal, expeditious and cost-effective remittance transfers;
  - (f) the development and implementation of national legislation and practices on international protection, with a view to satisfying the provisions of the UN Convention relating to the Status of Refugees and its 1967 Protocol, and to ensuring respect of the principle of "non-refoulement";
  - (g) the establishment of an effective and preventive policy to tackle illegal immigration, smuggling of migrants and trafficking in human beings including combating networks of smugglers and traffickers and protecting victims;
  - (h) relevant issues related to border control, including capacity building, training, sharing best practice and technical assistance;
  - (i) all issues related to return and readmission, including the need to carry out returns in a humane and dignified manner and in full respect of human rights, and the promotion of voluntary return.
3. (a) In the framework of cooperation to prevent and reduce illegal immigration, the Parties agree to readmit their illegal migrants. To this end:
- each EU Member State shall accept the return and readmission of any of its nationals illegally present on the territory of South Africa, at South Africa's request and without further formalities,
  - South Africa shall accept the return and readmission of any of its nationals illegally present on the territory of an EU Member State, at that Member State's request and without further formalities.
  - The EU Member States and South Africa will provide their nationals with appropriate identity documents for such purposes. In cases where the nationality or identity of a person is in doubt, the Parties agree to identify their alleged nationals.

- (b) At the request of the Parties negotiations shall be initiated aimed at concluding in good faith and with due regard for the relevant rules of international law, a bilateral agreement governing specific obligations for the readmission and return of their nationals. This agreement could also cover, if deemed necessary by the Parties, arrangements for the readmission of third country nationals and stateless persons. It will lay down the details about the categories of persons covered by these arrangements as well as the modalities of their readmission and return.";

(28) Article 94 shall be replaced by the following:

"Article 94

Grants

Financial assistance in the form of grants shall be covered by financial resources made available from Community budget lines for development and international cooperation activities falling within the scope of those budget lines. The procedure for presentation and approval of requests, implementation, and monitoring/evaluation will be in accordance with the general conditions relating to the budget line in question.";

(29) In Annex IV to Protocol 1 the South African language versions shall be amended as follows:

The words "Die uitvoerder van die produkte gedek deur hierdie dokument (doeanemagtiging No ...<sup>(1)</sup>) verklaar dat, uitgesonderd waar andersins duidelik aangedui, hierdie produkte van ... voorkeuroorsprong (2) is" shall be replaced by "Die uitvoerder van die produkte gedek deur hierdie dokument (doeanemagtigingsno. ...<sup>(1)</sup>) verklaar dat, behalwe waar duidelik anders aangedui word, hierdie produkte van ... voorkeuroorsprong<sup>(2)</sup> is".

## ARTICLE 2

This Agreement is drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovenian, Slovak, Spanish and Swedish languages and the official languages of South Africa, other than English, namely Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, isiNdebele, isiXhosa and isiZulu, each of these texts being equally authentic.

## ARTICLE 3

1. This Agreement shall be approved by the Community, by the Member States, and by the Republic of South Africa in accordance with their own procedures.
2. The Parties shall notify each other of the accomplishment of the corresponding procedures referred to in paragraph 1. The instruments of approval shall be deposited with the General Secretariat of the Council of the European Union.

## ARTICLE 4

This Agreement shall enter into force on the first day of the month following the month in which the Parties notify each other that the necessary procedures have been completed.